

On January 27, 2014, the Court entered its order granting the Motion to Dismiss (ECF No. 10) filed by Defendant State of Nevada Board of Medical Examiners, dismissing Plaintiff's Complaint (ECF No. 1) and granting leave to amend by February 7, 2014. (Order, Jan. 27, 2014, ECF No. 20.)

On February 7, 2014, the deadline to amend expired and Plaintiff failed to file an amended pleading or to take any other action showing good cause for an exception to the Court's warning that "[f]ailure to do so by this deadline shall result in dismissal of the action with prejudice." (*See* Order, Jan. 27, 2014, 4:21-22.)

Defendant filed its Response (ECF No. 24) on February 12, 2014, opposing Plaintiff's motion and pointing out that dismissal of the action with prejudice is now appropriate. As discussed in this Order, the Court agrees with Defendant that Plaintiff's motion is without merit, and that the action should be dismissed with prejudice.

1 **I. LEGAL STANDARD**

2 On motion and just terms, the court may relieve a party or its legal representative
3 from a final judgment, order, or proceeding for the following reasons:

- 4 (1) mistake, inadvertence, surprise, or excusable neglect;
5 (2) newly discovered evidence that, with reasonable diligence, could not have
6 been discovered in time to move for a new trial under Rule 59(b);
7 (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation,
8 or misconduct by an opposing party;
9 (4) the judgment is void;
 (5) the judgment has been satisfied, released or discharged; it is based on an
 earlier judgment that has been reversed or vacated; or applying it prospectively
 is no longer equitable; or
 (6) any other reason that justifies relief.

10 Fed. R. Civ. P. 60(b).

11 The Ninth Circuit has distilled the grounds for reconsideration into three primary
12 categories: (1) newly discovered evidence; (2) the need to correct clear error or prevent
13 manifest injustice; and (3) an intervening change in controlling law. *School Dist. No. 1J v.*
14 *ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993).

15 **II. DISCUSSION**

16 In its Order, the Court found that dismissal of Plaintiff's § 1983 claims against the Board
17 is appropriate, citing *Buckwalter v. Nevada Bd. of Medical Examiners*, 678 F.3d 737, 740 n.1,
18 748 (9th Cir. 2012), and *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 101-102
19 (1984) in support of the proposition that the Eleventh Amendment bars Plaintiff's § 1983
20 claims against the Nevada State Board of Medical Examiners. (Order, Jan. 27, 2014, ECF No.
21 20.)

22 The Court has considered Plaintiff's arguments and the legal authority discussed by
23 Plaintiff in support of reconsideration. However, the Court finds no basis on these grounds to
24 reverse its Order as requested by Plaintiff. Accordingly, the motion will be denied.

25 Furthermore, Plaintiff has failed to timely amend her pleading so as to cure the

1 deficiencies in her allegations, and has not requested an extension of the Court's deadline or
2 shown good cause for such an extension.

3 The Court finds that Plaintiff has received adequate notice of the time period during
4 which she was permitted to amend her pleading, and of the resulting dismissal with prejudice
5 that would follow from a failure to do so. The Court also finds that further leave to amend is
6 not warranted. *See Foman v. Davis*, 371 U.S. 178, 182 (1962).

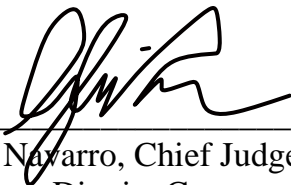
7 Accordingly, the action will be dismissed with prejudice.

8 **IV. CONCLUSION**

9 **IT IS HEREBY ORDERED** that the Motion for Reconsideration of Order Based on
10 Error of Law (ECF No. 21) is **DENIED**.

11 **IT IS FURTHER ORDERED** that this action is dismissed with prejudice. The Clerk
12 shall enter judgment accordingly.

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14 **DATED** this 13th day of February, 2014.

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18 Gloria M. Navarro, Chief Judge
19 United States District Court
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